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Juror in Westmoreland-CBS Case Penned It One Day at a Time

Months of Boredom Yield Fresh View of Decision-Makers

By Larry Elkin
Associated Press

CARMEL, N.Y., Feb. 23—Patricia Roth was an apolitical, grade-school art teacher who found herself watching history played out in a federal courtroom.

Roth, 42, was part of the jury that for 18 weeks heard evidence in retired Army general William C. Westmoreland's \$120 million libel suit against CBS Inc. about its documentary, "The Uncounted Enemy: A Vietnam Deception."

Roth began a diary that eventually filled five spiral notebooks. When the trial ended last week with Westmoreland's dropping his suit, she made her diary available to the Associated Press.

[Roth, who has called the CBS broadcast "extremely accurate," told The Washington Post today that during her first few nights as a juror she was so anxious, she couldn't sleep.

"I just paced the floor at first," she said. "I couldn't talk to anybody about it, so I decided to keep the diary. It was sort of my way of keeping a handle on what was transpiring and what my feelings about it were."

[She said she hadn't planned to make it public, adding that she considered it just "something to show my grandchildren." But she said that after the trial was over, she felt she had learned something she wanted to share. "I lost my awe" of the top decision-makers in government and the news media who testified," she said.]

Here are excerpts from her diary:

Oct. 9, 1984—They took us up to courtroom 318. I could not believe how filled this place was. I was in a state of shock when I saw [CBS correspondent Mike] Wallace. He's the only one I recognized, and Westmoreland.

Oct. 11—I wanted to be extremely fair. I had the fear of God inside of me, I felt that I had an enormous task. I was grateful for the other jurors.

The lawyer for the plaintiff [Dan Burt] took up most of the day. He looked to me young and inexperienced. He was well-versed, or rather, well-prepared. He presented segments of a newscast that was at issue . . . He used segments and showed what had been cut, which he tried to show distorted the issue. It was hard to follow.

The defense attorney [David Boies] was much more relaxed and slow. He very purposefully went over every statement, went back and reviewed and made sure that we had a grasp on what he was attempting to deliver.

Oct. 15—Mr. Burt had done a lot of homework. He seemed more relaxed. First he introduced his witness, Dr. [Walt] Rostow, who had been national security chief under Lyndon Johnson. He did indeed have impressive credentials. He had a pleasant manner. I couldn't take notes fast enough. It sounded as though CBS didn't have a case.

Oct. 16—Walt Whitman Rostow was still on the stand. Dr. Rostow, it was obvious, refused to be pinned down. He had these broad losses of memory. Was his memory really failing him . . . ? My belief was that he wanted to avoid giving answers.

We returned from a short recess, and [Robert] Komer [a former Westmoreland aide] was on the witness stand. Where Dr. Rostow had a soft, literary way about him, Komer was all business.

Komer stated that they all, at least in Vietnam, were well aware of the problem with the numbers of the enemy. Was the president made aware of these numbers? It was obvious, however, that they were concerned about the press finding out.

Oct. 17—My feelings change with each witness and go back and forth with what attorney has command of the floor. It seems CBS has an open-and-closed case. On the other hand, it appears that Westmoreland had handled his affairs on the up-and-up, not necessarily to the American people or the press, but in general to his immediate advisory staff.

I think just maybe he was doing the job he was told to do.

Oct. 22—Mike Wallace sits there every day. I've seen him on TV a thousand times. "Oh, there's Mike Wallace," was the first reaction. But it's been two weeks now. "Big deal, there's Mike."

Oct. 23—What kind of information is classified? If it's anything like the exhibits coming out in court, cables and letters and secret documents, you can rest assured it's BORING. From the testimony we've heard so far, all anyone did between March 1967 and January 1968 was to hide numbers, lie about numbers and worry about numbers.

Oct. 30—We have been hearing a name a lot lately, and finally he was on the stand in the flesh—[former] Gen. Daniel Graham.

According to Graham, [former CIA analyst and co-defendant] Sam Adams was the only one who wanted higher [enemy strength] figures—no one else.

Nov. 1—Gen. Graham very authoritatively spouted off this elaborate system he designed on how to figure out the enemy. I looked at this man and I realized he was full of it . . .

Nov. 15—Gen. Westmoreland was finally on the stand. It was strange to see him up there after having watched him for so long.

Westmoreland said that MACV [his command headquarters] was the best judge of what was happen

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ing. "The CIA was too remote. Washington was not sophisticated enough to evaluate the information accurately. Neither was the press. This was all, of course, in reference to the numbers, the almighty, uncounted numbers."

Nov. 16—Westmoreland made an extremely emotional speech [about how good his troops were]. I could feel tears welling up

Nov. 29—We were told that the general had been ill—that's why we had been off [for two days]. I listened, I watched and I realized something was very wrong. Either he's still ill or he's trying to cover up something. He had been on the same question all morning. Boies was trying very hard to get the general to admit something. Westmoreland kept denying it, kept going through long, involved explanations.

Dec. 6—Suddenly [former defense secretary] Robert McNamara was on the stand. I was impressed with him throughout the day. He never was satisfied with just being handed a document. He would ask if he could read it in its entirety We sat sometimes for 10 or 15 minutes while McNamara pored over documents.

Dec. 10—Dan Rather made an appearance. He quietly came in the door in the back Not a person in the jury box missed it.

Jan. 23—[Former CIA analyst]

George Allen didn't mince words. "This prostitution of intelligence process was intolerable." He sounded filled with emotion. One has to go with gut feelings. Is this man a credible witness? I think so.

Feb. 12—[Former] Col. Gains Hawkins was called to the stand. Without looking at my fellow jurors, I could feel the excitement. We've been waiting for him.

"Did you, Col. Hawkins, ever ask anyone to lower their figures?" asked Boies. The poor man sat frozen in his chair like he was confessing a mortal sin to the world. His hand started to shake. In a hardly audible voice he answered, "I gave orders to men—nothing justified this—I knew it at the time. I ordered them to lower the figures."

The tears had already welled up in my eyes.

Feb. 17— . . . Bob [Roth's husband] yelled from the living room: "Westmoreland has dropped his libel suit against CBS! They just announced it on NBC."

Feb. 18—Westmoreland was claiming a victory. "I got what I wanted—a statement saying that I was patriotic." I found it difficult to watch.

Feb. 19—I got up at 4 a.m. The words that we heard over and over during the trial attributed to Gen. Westmoreland—"What am I going

to tell the press"—were now foremost on my mind.

[Roth told The Post that before the trial she had "taken it for granted" that the nation's decision-makers knew what they were doing.

"I never got involved," she said. "I'm an artist. I'm less likely to be that way from now on. I know now that we're all operating with the same material My opinions are just as valid."]